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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/008,895	12/07/2001	Alfred Preukschat		5243

7590 08/01/2003

Dr. Max Fogiel  
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EXAMINER

PEZZLO, BENJAMIN A

ART UNIT	PAPER NUMBER
3683	

DATE MAILED: 08/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	PREUKSCHAT ET AL.
	10/008,895	Art Unit
	Examiner Benjamin A Pezzlo	3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.

- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.

- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.

- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on \_\_\_\_\_.

2a) This action is **FINAL**.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1 and 4-9 is/are pending in the application.

4a) Of the above claim(s) 4,5,7,8 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1,6 and 9 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

<input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s) _____.
<input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
<input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 1 is objected to because of the following informalities:

"the" should appear between "in" and "form" in line 10.

Appropriate correction is required.

### ***Double Patenting***

2. Claim 9 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 6.

When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, it is unclear if the regulating valves of the flow regulating systems of lines 11-12 are the at least one valve assembly with electrically variable flow resistance regulated by a regulating valve of lines 4-5.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 6, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corradini et al. (US 6467593) in view of

Corradini et al. discloses a regulated dashpot 1 with shock-absorption force controls including at least one flow-regulating system (see Figs. 14a and 14b) including at least one shock-absorption component for the compression phase and for a decompression phase (see components 12 and 16, respectively), at least one valve assembly (14 and/or 18) with variable flow resistance (see the springs 13 and 17 which allow for variable impedance by a regulating valve (the components 13 and 16 are valves), at least one fixed bypass valve (see Figs. 14a and 14b) with a constricted cross section (see spring 34 which constricts the cross section of valve 31) hydraulically paralleling the flow-regulating system, at least one flow regulating system for the compression phase and at least one flow regulating system for the decompression phase in the form of regulating valves with variable flow constriction, the flow resistance being continuously steplessly variable for providing continuous damping between soft and hard damping, the bypass valve preventing pressure pulses in damping fluid when the regulating valve transfers rapidly from open to close positions corresponding to upward wheel shocks and sudden wheel accelerations, so that sudden jolts are prevented when shifting between soft and hard damping for comfort in riding in said vehicles (see col. 3 lines 1-16).

Corradini et al do not disclose the valves being electrically variable. However, Corradini et al. do disclose manually variable valves thereby providing some suggesting of an electrically variable valve. Jensen et al., Miller, and Nezu et al. disclose electrically variable valves in a shock absorber setting. It would have been obvious to one of ordinary skill in the art to which the invention pertains at the time the invention was made to have provided the device of Corradini et al. with electrically variable valves according to the teachings of Jensen et al., Miller and/or Nezu et al. in order to allow for automated control of the valves.

Re claim 6, see Figs. 14a and 14b which show the valves located outside the dashpot, see also hydraulic-fluid lines 27.

#### ***Response to Arguments***

7. Applicant's arguments filed 21 April 2003 have been fully considered but they are not persuasive.

Applicant argues that Corradini does not disclose a variable flow resistance which is continuous and without steps. However, Corradini does disclose a variable flow resistance, note that the springs decrease flow resistance under pressure, moreover, see adjusting elements 51'.

Applicant further argues that the claimed device is provided to prevent pressure pulses in the damping fluid, in this regard see the bottom of col. 1 to the top of col. 2 of Corradini who states that the disclosed device is for the same purpose. Further note that Corradini does disclose a bypass valve for responding to sudden jounce and bounce. Also note that the parallel fixed bypass of Corradini is only overcome in sudden jounce and bounce situations which overcome a preloaded spring.

***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin A Pezzlo whose telephone number is (703) 306-4617. The examiner can normally be reached on M-F 9-5.

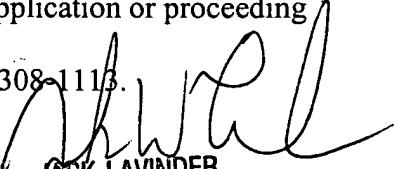
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on (703) 308-3421. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 308-3519 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

BAP

July 28, 2003

*BAP 7/28/03*

  
JACK LAVINDER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600